

Chapter 18.64

APPEALS

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18.64.010 Purpose of appeals.

The purpose of the appeal procedure is to provide a general method of recourse for persons aggrieved by or dissatisfied with any action by an administrative agency of the city in the administration or enforcement of any provision of Division I of this title. (Ord. 559 N.S. § A (part), 1981)

18.64.020 Appealable actions--To planning commission.

The following actions are appealable to the planning commission:

- A. Actions by the community development department on zoning permit processing;
- B. Actions by the community development department regarding the designation of certain properties as "sensitive sites," pursuant to Chapter 18.74 and the Design Review Ordinance. (Ord. 559 N.S. § A (part), 1981)

18.64.030 Appealable actions--To city council.

The following actions are appealable to the city council:

A. All actions of the planning commission, both as an appellate agency, and as an agency exercising original jurisdiction, including recommendations of denials of applications. (Ord. 559 N.S. § A (part), 1981)

18.64.040 Filing procedure.

Any person aggrieved by or dissatisfied with, or excepting to any action by an administrative agency as to which an appeal to the planning commission is authorized pursuant to Section 18.64.020 may appeal from such action by filing a written notice of appeal with the secretary of the planning commission, directed to the planning commission. Actions appealable to the city council shall require written notice to the city clerk. (Ord. 559 N.S. § A (part), 1981)

18.64.050 Notice of appeal--Time limit.

A. A notice of appeal of a direct subject appellant who is aggrieved by or dissatisfied with a decision on an application made by him or in his behalf, or with any action, order, requirement, decision or determination as to which he is a direct subject appellant, shall not be acted upon unless filed within ten days after service of written notice of such action appealed from; provided, that if such notice of action has not been served in writing, the appellant may, within ten days after being appraised of such action, demand service of written notice by first class mail or airmail, postage prepaid.

B. A notice of appeal of a third-party appellant who is not a direct subject of the actions from which the appeal is sought, shall not be acted upon unless filed within ten days of the action, denial, order, requirement, permit, decision or determination which is the subject of the appeal. (Ord. 559 N.S. § A (part), 1981)

18.64.060 Notice of appeal--Contents.

A. The notice of appeal shall set forth:

1. The specific action appealed from;
2. The specific grounds of the appeal; and

3. The relief or action sought from the planning commission or city council.

B. In the event any notice of appeal fails to set forth any information set forth by this section, the secretary of the planning commission or city clerk shall return the same to the appellant

with a statement of the respects in which it is deficient, and the appellant shall thereafter be allowed five days in which to perfect and refile his notice of appeal. (Ord. 559 N.S. § A (part), 1981)

18.64.070 Fee for appeals.

A. Except where an appeal is filed by the city manager or any city council member in pursuance of official duties, the written notice of appeal shall be accompanied by a fee, as established by resolution of the city council.

B. If the notice of appeal is not accompanied by a fee, or if the amount paid is insufficient to constitute the appropriate fee, the secretary of the planning commission shall promptly notify the appellant of the deficiency, and shall advise him that the appeal shall not be considered unless and until the appropriate appeal fee has been paid. If a deficiency in payment of an appeal fee is not corrected within the time period prescribed in the notice, the right of appeal shall be terminated. (Ord. 855 N.S. § 1, 1988; Ord. 559 N.S. § A (part), 1981)

18.64.080 Hearing--Matters for consideration.

In any appeal hearing, consideration shall be limited to the evidence and matters presented in the first instance before the administrative agency whose action is the subject of the appeal; provided, however, that the planning commission or City Council may, by motion duly passed, elect in its discretion to grant a hearing de novo. (Ord. 1215 N.S. § 63, 1995; Ord. 559 N.S. § A (part), 1981)

18.64.090 Hearing--Presentation of evidence.

At the time of consideration of the appeal, the appellant shall be limited to a presentation of the specific grounds of appeal, and matters set forth in the notice of appeal, and shall have the burden of establishing cause why the action appealed from should be altered, reversed or modified. Where the notice of appeal was filed by a third-party appellant, the applicant shall have the right to present evidence in support of the action. (Ord. 559 N.S. § A (part), 1981)

18.64.100 Hearing--Determination.

The planning commission or city council may continue the matter from time to time and, at the

conclusion of its consideration, may affirm, reverse or modify the action appealed from and may take any action which might have been taken in the first instance by the administrative agency from whose action the appeal has been taken; provided, however, that the planning commission or city council shall not grant an appeal of a denial of a variance unless it has first made the findings set forth in Chapter 18.60. (Ord. 559 N.S. § A (part), 1981)